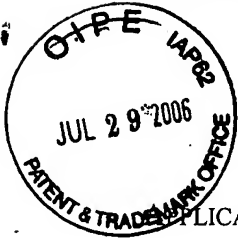


Date of Deposit: July 28, 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Korsmeyer, et al.
SERIAL NUMBER 10/658,028 EXAMINER: Lei Yao
FILING DATE September 9, 2003 ART UNIT: 1642
FOR: BH3 PEPTIDES AND METHOD OF USE THEREOF

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is a response to the May 25, 2006, Restriction Requirement in the above-mentioned application. Applicants elect the invention of Group I, claims 1-7 and 11, drawn to an isolated peptide, classified in class 530, subclass 300. Applicants further elect the sequence of SEQ ID NO: 4. This election is made with traverse. The traverse is on the basis that the sequences of SEQ ID NOs: 3-7 and 11 should be prosecuted together.

According to MPEP § 2434, up to 10 independent and distinct nucleotide sequences can be examined in a single application without restriction. The sequence of SEQ ID NO: 4 is a Bcl-2-associated death protein (BAD)-like BH3 peptide. Similarly, the sequences of SEQ ID NOs: 3 and 5-7 are also BAD-like BH3 peptides. The sequence of SEQ ID NO: 11 is a consensus sequence for BAD-like BH3 peptides. Specifically, SEQ ID NOs: 3-7 and 11 are isoforms of each other and are structurally similar. Applicants submit that a search of prior art relevant to the patentability of the sequence of SEQ ID NO: 4 necessarily encompasses the sequences of SEQ ID NOs: 3 and 5-7.

Applicants further elect BCL-2 as the species (claim 3) for initial prosecution on the merits.

A petition for a two-month extension of time and the required fee are filed herewith. With this extension of time, these documents are due no later than Friday, August 25, 2006. Applicants believe no additional fees are due. However, the Commissioner is authorized to charge any additional fees that may be due to Deposit Account No. 50-0311; Attorney Reference No. 20363-021.

Respectfully submitted,



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Date: July 28, 2006

TRA 2175577v.1